

# EXHIBIT 6

REDACTED VERSION

OF DOCUMENT SOUGHT TO BE SEALED



Elizabeth Day  
eday@feinday.com  
Feinberg Day Kramer Alberti Lim  
Tonkovich & Belloli LLP  
577 Airport Blvd., Suite 250  
Burlingame, CA 94010  
T: 650.825.4300  
F: 650.460.8443

October 27, 2020

*Via Electronic Mail*

L. Rex Sears  
Maschoff Brennan  
111 South Main Street, Suite 600  
Salt Lake City, Utah 84111  
rsears@maschoffbrennan.com

Dear Rex:

Re: *Wapp Tech Ltd. Partnership, et al. v. Seattle SpinCo, Inc., et al.*, 4:18-cv-00469-ALM

I write in response to your letter dated October 26 regarding the parties' meet and confer on Friday, October 23, 2020. I note that you seem to take issue with the detailed nature of the agenda I sent on Thursday, despite asking Mr. Kramer for an identification of the issues Plaintiffs wished to discuss. I write to address several outstanding issues.

**Document Production**

With respect to the customer-specific RFI/RFO/PRD/SOW documents, I have conferred with Mr. Harkins about the parties' prior discussions regarding the production of these documents and the list of twenty (20) customers (dramatically reduced from the prior list of 180 customers) as a way to resolve Plaintiffs' outstanding requests for these documents. It is my understanding that Defendants' client managers keep customer-specific files on their individual computers. And although you claim that in-house counsel contacted more than twenty people to track down customer-specific documents for Bank of America, Wells Fargo and [REDACTED] you have not explained for the remaining 17 customers who the client manager(s) is for each customer and whether that manager has customer-specific documents. Moreover, for the seven documents produced on October 22, 2020, only three of them appear to relate to Bank of America (based on the title of the document). We have reviewed the properties and the limited metadata information associated with the other four documents and cannot tell to whom they may have been provided. I note that you take issue with the timing of the requests, including



my request of October 21, but Micro Focus failed to produce the documents first requested on September 8 (“Micro Focus also still has not produced pitches to customers or prospective customers related to those sales. For Micro Focus’ largest customers in particular, it does not seem plausible that there would be no documentation for proposing solutions that include the Accused Instrumentalities or discussing why the prospective customer would want to pay for the offered solutions”) until October 22. Plaintiffs renew their request that Micro Focus search for and produce customer-specific materials for the remaining 17 customers. In addition, please identify by Bates number which of the four documents provided on October 22 were provided to which customer. Finally, thank you for identifying during Friday’s call the one additional document located since your October 22 production. We look forward to its production or an explanation as to why the third party to whom it was allegedly sent has an objection to its production.

With respect to the specific cost/profit margin data for the Accused Instrumentalities, although Micro Focus contends it has “produced data relating to cost and profit margin for the accused products at the level of granularity at which those are tracked,” as I mentioned during the call, Plaintiffs’ damages expert has not been able to locate such information in the production. I asked during the call that you provide the Bates numbers for those documents you contend identify the specific cost/profit margin data for the Accused Products. Your October 26 letter fails to do so.

With respect to documents pertaining to license agreements and discount factors, thank you for investigating this request further. We look forward to receiving additional documents later this week.

With respect to the Enterprise License Arrangements, the ELA discussed at MFDEFS00152596 addresses a [REDACTED]

[REDACTED] Please produce documents sufficient to show how HPE and Micro Focus product specific revenues, costs and profits were tracked, recorded and distributed between HPE and Micro Focus entities before and after the 2016 merger.

With respect to the studies or analysis of mobile app testing and development costs, development costs associated with the mobile banking app and maintenance costs for mobile bank app, we look forward to receiving the results of your investigation.

With respect to the HPE/Micro Focus licenses mentioned by Roboostoff during his deposition, thank you for agreeing to investigate and get back to us.

### **Defendants’ Second Supplemental Responses to Wapp’s First Set of Interrogatories**

Thank you for agreeing to provide a supplemental response to Interrogatory No. 6. With respect to Interrogatory No. 9, we disagree that you are “hamstrung” or that my client has



With respect to Topic 46 and communications with third parties concerning the lawsuit, Plaintiff, any of the patents-in-suit or any of the Accused Instrumentalities, please provide a privilege log so that Plaintiffs may assess whether Micro Focus' assertion of privilege is proper.

For Topic 58 relating to source code, please confirm that you will provide a witness to testify regarding the source code identified in Plaintiffs' infringement contentions. As we discussed during the call, there may be questions regarding the source code that go beyond what is specifically identified in the contentions and we expect that the witness Micro Focus chooses to produce will be sufficiently prepared to answer those questions as well.

**Email Discovery**

Plaintiffs will respond to this topic under separate cover later this week, including providing an explanation of good cause and revised search terms.

We look forward to speaking with you further on Wednesday, October 28 in advance of the teleconference with Judge Mazzant on Thursday, October 29.

Sincerely,

/s/ Elizabeth Day  
Elizabeth Day